



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION VII

999 18th STREET - SUITE 500
DENVER, COLORADO 80202-2405

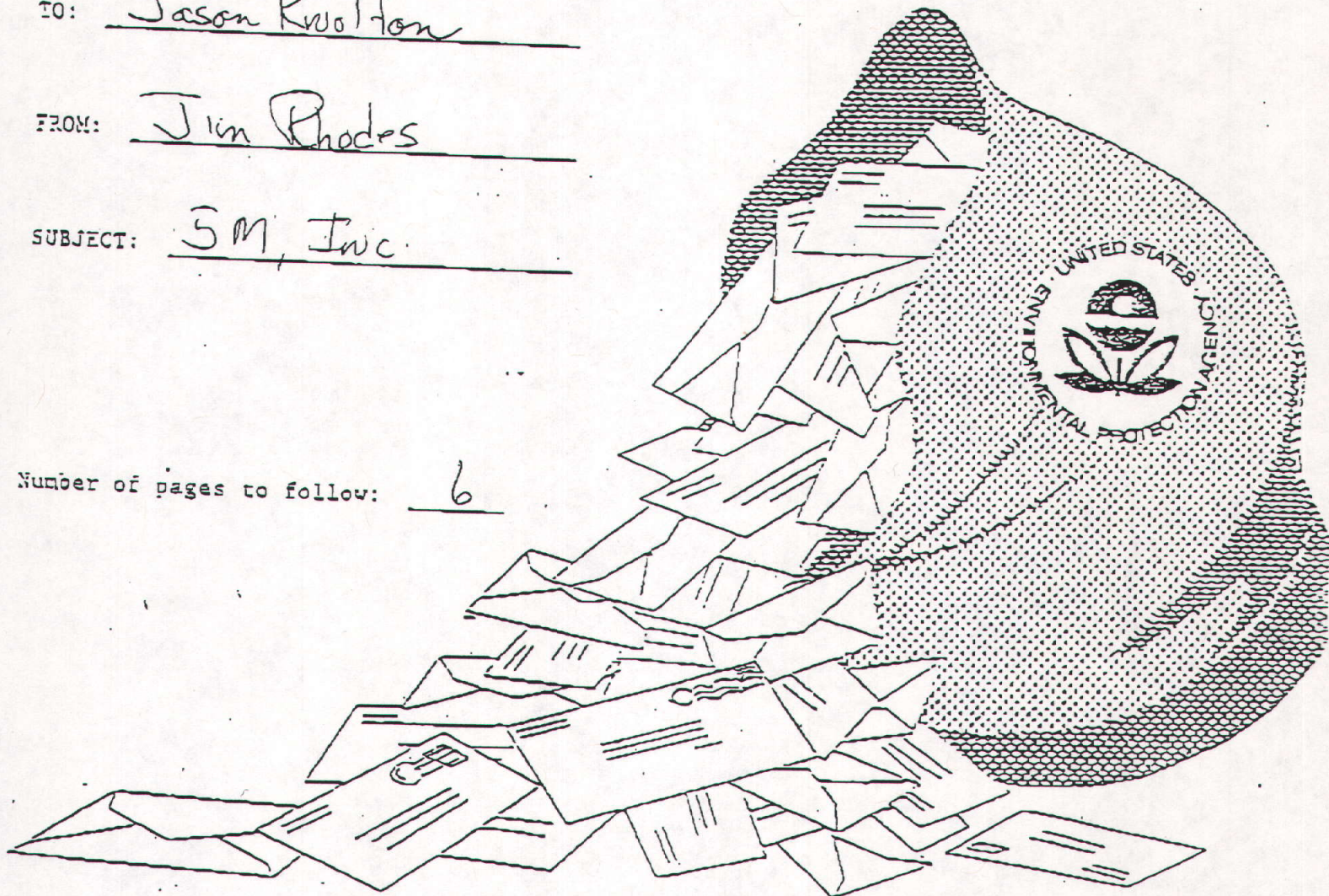
-- Emergency Response Branch --

TO: Jason Kwohlon

FROM: Jim Rhodes

SUBJECT: SM, Inc.

Number of pages to follow: 6



COMMENTS:



Please call (303) _____ if you have any problems.

Our return fax number is (303) 294-7166. Thank you.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VIII

999 18th STREET - SUITE 500
DENVER, COLORADO 80202-2466

OCT 26 1994

Ref: 8HWM-ER

FILE COPY

CERTIFIED MAIL
RETURN RECEIPT REQUESTED5M, Incorporated
Attn: Mr. Jerry Glazier
279 West State Street
P.O. Box 752
Hurricane, Utah 84737Re: Notice of Potential
Liability Pursuant to CERCLA
Sections 106 and 107; Leeds
Silver Reclamation Site in
Leeds, Washington County,
Utah

Dear Mr. Glazier:

The United States Environmental Protection Agency, Region VIII (EPA), is considering the expenditure of public funds to abate, minimize, stabilize, mitigate, and/or eliminate the release and threatened release of hazardous substances, pollutants, and/or contaminants into the environment at property located at the Leeds Silver Reclamation Site in Leeds, Washington County, Utah (Site). Unless EPA determines that a responsible party will perform such actions properly and promptly, EPA intends to do so pursuant to Section 104 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. § 9604 (1982), as amended by the Superfund Amendments and Reauthorization Act of 1986 (CERCLA).

Responsible parties under CERCLA include current and past owners and operators of facilities from which there is or may be a release or threatened release of a hazardous substance, and persons involved in the generation, treatment, transportation, or disposal of hazardous substances. Under Section 106(a) of CERCLA, 42 U.S.C. § 9606(a), and other laws, responsible parties may be required to implement response actions with EPA oversight. In addition, under Section 104 of CERCLA, 42 U.S.C. § 9604, EPA may undertake response actions. Under Section 107 of CERCLA, a responsible party or parties may be liable for all costs incurred by the government in responding to any release or threatened release of hazardous substances. Such costs include, but are not limited to, expenditures for investigation, planning, oversight of private party response actions, cleanup of the Site, and enforcement.



EPA has determined that a release of hazardous substances, pollutants, and/or contaminants as defined by Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), has occurred and threatens to continue in the future at this Site. Hazardous substances, including mercury, copper, selenium, silver, and vanadium, have been detected at the Site and are contaminating, or pose a threat of contamination of, surface water, ground water and soils at the Site. Hazardous substances, pollutants, and contaminants located on or adjacent to the site may present a threat to the environment.

EPA has reason to believe that you are either the past or current owner and/or operator of property and facilities at the Leeds Silver Reclamation Site, from which this release or threatened release is occurring or may occur within the meaning of Section 107 of CERCLA, 42 U.S.C. § 9607. By this letter, EPA notifies you of your potential liability with regard to this matter and encourages you to voluntarily undertake clean-up activities which will be overseen by EPA and/or other government agencies.

To abate the release or threat of release and the threat to the environment resulting from that release or threat of release, EPA plans to take action including investigation, drainage controls, Site stabilization, and/or other such actions as may be necessary to abate the threat. EPA will consider, however, a timely offer from you to conduct these actions. Please be advised that any participation on your part is subject to EPA approval and oversight. Participation must be under direct EPA control to permit coordination with other EPA actions pertaining to the Site.

DECISION NOT TO USE SPECIAL NOTICE

Under Section 122(e) of CERCLA, 42 U.S.C. § 9622(e), EPA has discretionary authority to invoke special notice procedures to formally negotiate the terms of an agreement between EPA and a potentially responsible party (PRP) or parties to conduct or finance response activities. Use of these special notice procedures triggers a moratorium on certain EPA activities at the Site while formal negotiations between EPA and the PRP or PRPs are conducted.

In this case, EPA has decided not to invoke the Section 122(e) special notice procedures. It is EPA's policy not to use the special notice procedures for removals unless there is a 6-month planning lead time after the decision to respond and prior to the initiation of the action. Since the planning lead time prior to the initiation of this response action is less than 6 months, special notice procedures will not be used.

ADMINISTRATIVE RECORD

Pursuant to CERCLA Section 113(k), EPA must establish an Administrative Record file that contains documents that form the basis for EPA's decision on the selection of a removal action for the Site. This Administrative Record, which contains the documents related to the response action selected for this Site, will be available to the public for inspection and comment. The primary location of the file will be at EPA's Region VIII Office, Superfund Records Room. An additional copy of the Administrative Record will be made available at a location near the Site. You will be notified when and where the Administrative Record is available. Your review and comments on the contents of the Administrative Record are welcomed.

INFORMATION TO ASSIST RESPONSIBLE PARTIES

EPA would like to encourage good faith negotiations between you and the EPA, and among you and other PRPs at the Site. The list enclosed with this letter as Appendix A contains the names of the PRPs that EPA has currently identified. Please be advised, however, that the PRP list represents EPA's preliminary findings on the identities of the PRPs. Inclusion on or exclusion from this list does not constitute a final determination concerning the liability of any party for the hazard or contamination present at the Site.

If you wish to conduct or participate in actions as outlined above, you must, within seven (7) days from your receipt of this letter, notify Peter Stevenson, On-Scene Coordinator (OSC), in writing at the above address of your wish to participate. Mr. Stevenson will coordinate your involvement in the development of an Administrative Order on Consent. EPA is finalizing a Work Plan which will be used as the basis for actions to be implemented under the Administrative Order on Consent. Please be advised, however, that the scheduled period for negotiations will end November 30, 1994. If an agreement has not been reached at that time, EPA may decide to issue a Unilateral Administrative Order directing you to conduct the removal action. If you do not write Mr. Stevenson within the seven-day period, EPA will assume that you decline any involvement in the removal action and may proceed with the necessary actions. EPA may initiate action at the Site before the end of this period, if EPA determines that immediate action is necessary to secure information to characterize the threat more fully or to abate the release of hazardous substances. EPA may continue such actions if no responsible party agrees to perform the necessary work.

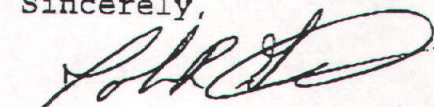
If you are already engaged in discussions with state or local authorities or are undertaking voluntary action, you should

continue such activities as you see fit; you should not interpret this letter as advising you to restrict or discontinue any such activities. You must, however, report the status of any such discussions or actions when you contact Mr. Stevenson. If you are insured for any damages resulting from the release of hazardous substances, pollutants, and/or contaminants and have not already done so, we suggest that you inform your insurance carrier that EPA is considering spending public funds to investigate and/or control releases at the Site.

Please be advised that the factual and legal discussions contained in this letter are intended for notification and information purposes only. They are not intended to be, and cannot be relied upon as, a final EPA decision or binding upon EPA concerning any matter discussed.

In closing, EPA would like to encourage you to conduct or participate in actions for this Site. If you have any questions regarding either this letter or the removal actions, please contact Ms. Susan Nash, Assistant Regional Counsel, at (303) 294-7590. Mr. James R. Rhodes, Enforcement Specialist, is also available to discuss this Notice at (303) 294-7040.

Sincerely,



John R. Giedt, Chief
Emergency Response Branch

Enclosure

APPENDIX A

POTENTIALLY RESPONSIBLE PARTIES
LEEDS SILVER RECLAMATION SITE
LEEDS, WASHINGTON COUNTY, UTAH

1. SM, Incorporated
279 West State Street
P.O. Box 752
Hurricane, Utah 84737

Attn: Mr. Jerry Glazier
2. Kerley Mining Chemicals, Inc.
2801 West Osborn Road
Phoenix, arizona 85017
3. Tech-Sym Corporation
10500 West Office Drive
Houston, Texas 77042
4. Winding River Properties, Inc.
Three Gateway Center, 6 North
Pittsburgh, PA 15222

Attn: Mr. Roger F. Meyer, President

cc: Winding River Properties, Inc.
c/o Mr. R.F. Wagner
Dickey, McCamey & Chilcote, P.C.
Two PPG Place, Suite 400
Pittsburgh, PA 15222
5. Tenir, Inc.
Three Gateway Center, 6 North
Pittsburgh, PA 15222

Attn: Mr. Roger F. Meyer

cc: Winding River Properties, Inc.
c/o Mr. R.F. Wagner
Dickey, McCamey & Chilcote, P.C.
Two PPG Place, Suite 400
Pittsburgh, PA 15222

6. Roldiva, Inc.
Three Gateway Center, 6 North
Pittsburgh, PA 15222

Attn: Mr. Roger F. Meyer, Treasurer, Vice-President

cc: Winding River Properties, Inc.
c/o Mr. R.F. Wagner
Dickey, McCamey & Chilcote, P.C.
Two PPG Place, Suite 400
Pittsburgh, PA 15222